Case No. 17-1351

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, ET AL.,

Plaintiffs and Appellees,

v.

DONALD J. TRUMP, ET AL.,

Defendants and Appellants.

Appeal from the United States District Court
for the District of Maryland, No. 17-cv-00361 (Chuang, J.)

UNOPPOSED MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF
IN SUPPORT OF APPELLEES
FOR AFFIRMANCE OF PRELIMINARY INJUNCTION
AND
IN OPPOSITION TO APPELLANTS' MOTION FOR A STAY

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Attorneys for *Amici Curiae*
Lawyers' Committee for Civil Rights under Law;
Center for Reproductive Rights;
Southern Coalition for Social Justice;
National Center for Lesbian Rights;
The Judge David L. Bazelon Center for Mental Health Law;
Chicago Lawyers' Committee for Civil Rights under Law;
Mississippi Center for Justice; and
The Washington Lawyers' Committee for Civil Rights and Urban Affairs

On behalf of *Amici* the Lawyers' Committee for Civil Rights Under Law, the Center for Reproductive Rights, the Chicago Lawyers' Committee for Civil Rights Under Law, The Judge David L. Bazelon Center for Mental Health Law, the Mississippi Center for Justice, the National Center for Lesbian Rights, the Southern Coalition for Social Justice, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs, we seek the Court's permission to file a brief of *amici curiae* in support of Appellees, in opposition to Appellants' motion for a stay and on the merits. The parties consent to the filing of the proposed *amici* brief, which accompanies this motion.

As set forth below, *amici* are national and regional civil rights groups interested in the promotion of civil liberties throughout the country, and elimination of discrimination in whatever form:

1. The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") is a nonprofit civil rights organization founded in 1963 by the leaders of the American bar to help defend the civil rights of racial minorities and the poor. The Lawyers' Committee has decades of experience combating official discrimination, of the sort at issue in this case, in courts all over the country, including the U.S. Court of Appeals for the Fourth Circuit, and currently represents the plaintiffs in a similar case, *Pars et al. v Trump et al.*, 17-cv-00255 (D.D.C. filed Feb. 8, 2017).

2. The Center for Reproductive Rights (CRR) is a global human rights organization that uses the law to advance reproductive freedom as a fundamental right that all governments are legally obligated to respect, protect, and fulfill. In the United States, CRR's work focuses on ensuring that all people have access to a full range of high-quality reproductive health care. Since its founding in 1992, CRR has been actively involved in nearly all major litigation in the U.S. concerning reproductive rights, in both state and federal courts, including most recently, serving as lead counsel for the plaintiffs in *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292 (2016). As a rights-based organization, the Center has a vital interest in protecting individuals endeavoring to exercise their fundamental rights free from unwarranted government intrusion and discrimination. CRR's ability to bring litigation challenging executive and regulatory action, and to seek relief where individuals are threatened with irreparable harm, is crucial to its mission.

3. The Southern Coalition for Social Justice is a 501(c)(3) nonprofit public interest law organization founded in 2007 in Durham, North Carolina. SCSJ partners with communities of color and economically disadvantaged communities in the south to advance their political, social, and economic rights through the combination of legal advocacy, research, organizing and communications. Originally, one of amicus' primary practice areas was

immigrants' rights and it remains important to our mission. SCSJ frequently advocates on behalf of immigrants who have been subject to racially-discriminatory governmental practices, and promotes the application of basic human rights principles to policies affecting migrant communities.

4. The National Center for Lesbian Rights (NCLR) is a national non-profit legal organization dedicated to protecting and advancing the civil rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education. Since its founding in 1977, NCLR has played a leading role in combating discrimination and securing fair and equal treatment for LGBT people and their families in cases across the country involving constitutional and civil rights. NCLR has a particular interest in protecting the rights of LGBT immigrants and other immigrants to this country. Since 1994, NCLR's Immigration Project has provided free legal assistance to thousands of LGBT immigrants nationwide through, among other services, direct representation of immigrants in impact cases and individual asylum cases and advocacy for immigration and asylum policy reform.

5. The Judge David L. Bazelon Center for Mental Health Law is a national public interest organization founded in 1972 to advance the rights of individuals with mental disabilities. The Bazelon Center advocates for laws and policies that provide people with mental illness or intellectual disability the

opportunities and resources they need to participate fully in their communities. Its litigation and policy advocacy is based on the Americans with Disabilities Act's guarantees of non-discrimination and reasonable accommodation. People with mental illness or intellectual disability commonly face discrimination based on myths and stereotypes, and the eradication of such discrimination is among the Bazelon Center's primary goals.

6. The Chicago Lawyers' Committee for Civil Rights (CLCCR) is a 501(c)(3) nonprofit public interest law organization founded in 1969. CLCCR works to secure racial equity and economic opportunity for all. CLCCR provides legal representation through partnerships with the private bar, and collaborates with grassroots organizations and other advocacy groups to implement community-based solutions that advance civil rights. In all practice areas, including education equity, fair housing, economic opportunity, hate crime prevention and voting rights, CLCCR advocates for immigrants who have been subject to racially-discriminatory governmental practices and policies. CLCCR's goal is to ensure that America fulfills its promise of democracy and equal justice for all.

7. Mississippi Center for Justice is a 501(c)(3) nonprofit public interest law organization founded in 2003 in Jackson, Mississippi and committed to advancing racial and economic justice. Supported and staffed by attorneys and other professionals, the Center develops and pursues strategies to combat

discrimination and poverty statewide. One of amicus' original areas of interest involved predatory loan practices directed at migrant poultry workers, and MCJ has remained concerned about the plight of Mississippi's growing immigrant population for the last decade, particularly in the areas of access to healthcare, education, housing and fair lending.

8. The Washington Lawyers' Committee for Civil Rights and Urban Affairs is a non-profit civil rights organization established to eradicate discrimination and poverty by enforcing civil rights laws through litigation. In furtherance of this mission, the Washington Lawyers' Committee has a dedicated Immigrant Rights Project, which has served as a critical resource for some of the most vulnerable populations in the Washington, D.C. area: newcomers and non-English speakers, who are often discriminated against on the basis of their religious background or national origin, and who are often unaware of their rights and protections under U.S. law.

This case, and several other related cases that seek to enjoin President Trump's March 6, 2017 Executive Order, "Protecting the Nation from Foreign Terrorist Entry into the United States," are important, and the participation of Civil Rights Organizations is desirable. The *Amici* are national and regional civil rights groups interested in the promotion of civil liberties throughout the country, and elimination of discrimination in whatever form. *Amici*'s proposed brief presents two arguments. First, *amici* submit that the public interest weighs heavily in favor of enjoining President Trump's Executive Order, as the Order improperly promotes social categorization and stereotyping that endangers the lives and well-being of individuals of the Muslim faith. Second, this compelling public interest is entirely in keeping with the legal protections that the United States Constitution guarantees those affected by the Order. As Plaintiffs-Appellees contend, the Executive Order's focus on a religious minority demands strict scrutiny by this Court of whether it violates the equal protection component of the Fifth Amendment's Due Process Clause. However, even if this court were to review the Executive Order under a "rational basis" test, *amici* write separately to argue that the Order would still violate equal protection.

The attached proposed *amici* brief complies with the type-volume limitation for an *amicus* brief on the merits, because it contains less than half of the 13,000 words allotted for Appellants' opening brief.

All parties consent to filing of the proposed *amicus* brief.

Respectfully submitted,

DATED: April 19, 2017

/s/ Lynne Bernabei
Lynne Bernabei
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Alan R. Kabat
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Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it uses a proportionally spaced typeface (Times New Roman) in 14-point.

/s/ Alan R. Kabat

____

Alan R. Kabat

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2017, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Alan R. Kabat

Alan R. Kabat

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

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Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 17-1351 Caption: International Refugee Assistance Project et al. v. Trump et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

Lawyers' Committee for Civil Rights Under Law
(name of party/amicus)

who is Amicus Curiae, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
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4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: [signature] Date: April 18, 2017

Counsel for: Lawyers' Committee for Civil Rights

CERTIFICATE OF SERVICE

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I certify that on April 19, 2017 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Alan R. Kabat (signature)

April 19, 2017 (date)

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No. 17-1351 Caption: International Refugee Assistance Project et al. v. Trump et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

Center for Reproductive Rights
(name of party/amicus)

who is Amicus Curiae, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

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Signature: [signature] Date: April 18, 2017

Counsel for: Center for Reproductive Rights

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April 19, 2017 — (date)

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No. 17-1351 Caption: International Refugee Assistance Project et al. v. Trump et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

Southern Coalition for Social Justice
(name of party/amicus)

who is Amicus Curiae, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

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Counsel for: Southern Coalition for Social Justice

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No. 17-1351 Caption: International Refugee Assistance Project et al. v. Trump et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

National Center for Lesbian Rights
(name of party/amicus)

who is Amicus Curiae, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

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Counsel for: National Center for Lesbian Rights

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Pursuant to FRAP 26.1 and Local Rule 26.1,

Judge David L. Bazelon Center for Mental Health Law
(name of party/amicus)

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Signature: [signature] Date: April 18, 2017

Counsel for: Judge David L. Bazelon Center

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Pursuant to FRAP 26.1 and Local Rule 26.1,

Chicago Lawyers' Committee for Civil Rights Under Law
(name of party/amicus)

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Signature: ______________________ Date: April 18, 2017

Counsel for: Chicago Lawyers' Comm. for Civil

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Pursuant to FRAP 26.1 and Local Rule 26.1,

Mississippi Center for Justice
(name of party/amicus)

who is Amicus Curiae, makes the following disclosure:
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If yes, identify any trustee and the members of any creditors' committee:

Signature: Beth L. Orlansky, Advocacy Director Date: April 18, 2017

Counsel for: Mississippi Center for Justice

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April 19, 2017
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No. 17-1351 Caption: International Refugee Assistance Project et al. v. Trump et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

Washington Lawyers' Committee for Civil Rights and Urban Affairs
(name of party/amicus)

who is Amicus Curiae, makes the following disclosure:
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Signature: [signature] Date: April 18, 2017

Counsel for: Washington Lawyers' Committee

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